

REMARKS

Applicants respectfully request the Examiner to reconsider the present application in view of the foregoing changes to the claims.

Status of the Claims

In the present Amendment, claims 1-7 and 11-15 have been amended. Also, claims 41-42 have been added. Claims 8 and 18-40 were previously withdrawn from consideration, and have been canceled herein without prejudice or disclaimer of the subject matter contained therein. Further, claim 19 (though canceled herein) stands objected to but would be allowable if properly rewritten (see page 4 of the Office Action). Thus, claims 1-7, 9-17 and 41-42 are pending in the present application.

No new matter has been added by way of these amendments and new claims, because each amendment and new claim is supported by the present specification, original claims and/or is editorial in nature. For example, the amendment to claim 1 merely incorporates the canceled and allowable subject matter of claim 19. It is believed that claim 1 is now in allowable form. Also, the insertion of “chromium-vanadium hydride” in claim 1 is actually supported in the original claims (see, e.g., original claim 1 as even presented in the Amendment and Response of August 26, 2003, page 3, reciting “chromium and/or vanadium hydride”) as well as in the written description at page 2, line 19. Also, alternative ways of formulating the incorporation of biomolecules in the hydride layer have been inserted into pending claim 4. Support for this amendment is found at least at page 2, lines 6-7 of the present specification. The other

amendments to claims 2-7 and 11 merely change the dependencies of these claims. The changes to claims 7 and 12-15 are made for clarification purposes. Because these are clarifying amendments, Applicants are in no way conceding any limitations with respect to the interpretation of the claims under the Doctrine of Equivalents. Applicants also note that “a prosthetic vessel” in pending claim 7 was inadvertently deleted in Applicants’ previous Amendment (dated February 22, 2005) and is now being recited as presented herein. New claims 41-42 have been added for the Examiner’s consideration. Support for new claim 41 is found in the present specification at page 15, line 36. And support for new claim 42 is in the specification at page 12, line 23 to page 13, line 20. Thus, no new matter has been added.

Based upon the above considerations, entry of the present amendment is respectfully requested.

In view of the following remarks, Applicants respectfully request that the Examiner withdraw all rejections and allow the currently pending claims.

Election/Restriction

The Examiner has withdrawn claims 8, 18 and 20-40 as being directed to non-elected subject matter. Applicants respectfully note that these claims have been canceled, and Applicants reserve the right to pursue any canceled or non-elected subject matter in a divisional application.

Issues Under 35 U.S.C. § 101

Claims 6 and 7 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. This rejection is respectfully traversed, and reconsideration and withdrawal thereof are respectfully requested.

Applicants respectfully refer the Examiner to the scope of the disputed claims as presented herein. It is believed that this rejection has been overcome in that the claimed device/implant is now described as “prosthetic,” wherein the claims do not include the human body as asserted in the Office Action. Thus, Applicants respectfully request reconsideration and withdrawal of this rejection.

Issues Under 35 U.S.C. § 112, Second Paragraph

Claims 7 and 12-15 stand rejected under 35 U.S.C. § 112, second paragraph, for reasons of indefiniteness. This rejection is respectfully traversed, and reconsideration and withdrawal thereof are respectfully requested.

Applicants respectfully refer the Examiner to claim 7 as presented herein. Claim 7 merely recites a Markush group of prosthetic devices or implants, wherein the disputed claim language no longer appears in this claim.

With regard to pending claims 12-15, these claims are directed to the product of the device or implant, and not directed to a method as asserted in the Office Action.

Thus, Applicants respectfully submit that claims 7 and 12-15 fully comply with the provisions of 35 U.S.C. § 112, second paragraph. Reconsideration and withdrawal of this rejection are respectfully requested.

Issues Under 35 U.S.C. § 103(a)

Claims 1-7 and 9-18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hama et al. '559 (U.S. Patent No. 4,818,559) in view of Lee et al. '412 (U.S. Patent No. 6,190,412). This rejection is respectfully traversed, and reconsideration and withdrawal thereof are respectfully requested.

Applicants respectfully submit that patentable distinctions do exist. However, as can be seen from claim 1 as presented herein, the allowable subject matter of (canceled) claim 19 now appears in the main claim (claim 19 is allowable as stated in the Office Action at page 4). Thus, it respectfully submitted that this rejection under § 103(a) has been overcome and/or rendered moot. Further, all dependent claims thereon are also allowable. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Claim 42

Applicants have presented new claim 42 for the Examiner's consideration. Claim 42 resembles claim 1, except an alternative way of defining the biomolecule is being presented. Favorable action on this claim is respectfully requested.

Information Disclosure Statements

Applicants respectfully note that the Power of Attorney for this application has changed. A Revocation of Power of Attorney and New Power of attorney executed September 28, 2005, was filed with the USPTO on October 5, 2005. In this regard, Information Disclosure Statements were filed by Applicants' previous representative on September 27, 2005, January 12, 2004, September 17, 2002 and March 6, 2002 (the references cited on the September 27, 2005 IDS are repeats of a previous IDS(s)). However, Applicants have not yet received copies of each IDS having the Examiner's initials next to each cited reference. Initialed copies are thus respectfully requested.

If there are any issues concerning these Information Disclosure Statements (e.g., location thereof), Applicants respectfully request that the Examiner contact Applicants' representative at the contact information given below.

Conclusion

A full and complete response has been made to all issues as cited in the Office Action. Applicants have taken substantial steps in efforts to advance prosecution of the present application. Thus, Applicants respectfully request that a timely Notice of Allowance issue for the present case.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact Eugene T. Perez (Reg. No. 48,501) at the offices of Birch, Stewart, Kolasch & Birch, LLP.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: October 19, 2005

Respectfully submitted,

By

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